

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVN. APPLICATION NO. 211 OF 2006

Jhannuram B. Yadav.

.. Applicant.

Versus

The Municipal Corporation of Gr.
Bombay & Ors.

.. Respondents.

...

Mr. R.P. Ojha for the Applicant.

CORAM : D.G. KARNIK, J

DATED : 15th November 2006

P.C.:

1. Heard Counsel in Revision Application. This Revision Application is directed against the Judgment and Order dated 19th July 2006 passed in Chamber Summons No.15 of 2003 with Notice of Motion No.4822 of 2002.

2. Chamber Summons No.15 of 2003 was taken out by the Respondent No.2 herein for a declaration that the ex-parte Judgment and Decree passed by the Court on 4th October 2001 in Suit No.2293 of 1992 was inexecutable as the same was null and void. By the impugned order dated 19th September 2006, the trial Court declared that the

decree dated 4th October 2001 was void ab initio for want of jurisdiction and consequently held that it was not executable.

3. Proviso to Section 115 of the Civil Procedure Code introduced by the Amendment Act of 1999 says that the High Court shall not, under this section, vary or reverse any order made in any suit or proceeding except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or proceeding. The effect of this amendment is that in order to entertain revision application, it must be shown that if the Revision Application is allowed, the proceedings before the trial Court would finally terminate. If the present Revision Application is allowed execution proceedings which have been taken out by the Applicant would, be continued and would not terminate. In the circumstances, the present Revision Application is not maintainable in view of the proviso to Section 115 of the Civil Procedure Code.

4. Accordingly, Revision Application is dismissed as not maintainable.

(D.G. KARNIK, J)